IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2837 OF 2004

Prakash H.Dugad ...Petitioner
vs.
Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

Mr.N.R.Bubna for the petitioner
Ms P.A.Purandare for respondent Nos.1 to 5.
Mr.N.R.Sanghvi for Respondent Nos.6 to 12.

CORAM:H.L.GOKHALE & A.S.OKA,JJ.
DATE : FEBRUARY 14,2006

P.C.:

1. Heard Mr.Bubna in support of this Petition. Ms Purandare for Respondent Nos.1 to 5 and Mr.Sanghavi for Respondent Nos.6 to 12. The Petitioner is the landlord of the property situated at Lal Bahadur Shastri Mag, Kurla (West), Mumbai. The Respondent Nos.6 to 9 are in occupation of the Petitioner's premises i.e. Room No.2 and the Respondent Nos.10 to 12 are in occupation of the premises i.e. Room No.1. The Petitioner's grievance is that they have added first floor to the rooms which are in their occupation. He has lodged a complaint to the B.M.C. and the authorities of the B.M.C. have not taken any action inspite of lodging a complaint and writing the letters. It is therefore this present petition is filed.

2. Mr.Sanghvi for the Respondent Nos.6 to 12 states that no

such illegal construction has been done and that a suit has already been filed in the court of Small Causes on the same ground to evict the Respondent Nos.6 to 12 from those premises. He therefore submitted that the Petition should not be entertained.

3. We have noted that the a suit for eviction on the ground of alleged encroachment/addition is a one thing and the prayer for action against the Municipal Corporation is other thing. In the present case, all that the Petitioner is praying is that the Municipal Corporation should act against the Respondent Nos.6 to 12 in accordance with law. We therefore direct that Respondent Nos.1 to 5 to look into the complaint of the Petitioner. They may call the Respondent No.6 to 12 and if the authorities concerned find that the addition or alteration is illegal certainly they are expected to take action in accordance with law. The authorities of the B.M.C. to take action preferably with three months from receipt of authenticated copy of this order. Petition disposed of.

(H.L.GOKHALE,J.)

(ABHAY S.OKA,J.)